

Serial No. 10/687,457

Amdt. dated Mar. 23, 2010

Reply to Office action of Sept. 23, 2009

REMARKS

In the Office action, claims 1-6 have been rejected under 35 U.S.C. 112, second paragraph for being indefinite. Claim 1 is now cancelled but has been rewritten in accordance with U.S. practice as new claim 11. Claims 2-6 which now depend from new claim 11 have been variously amended to place them in accordance with U.S. practice. It is believed the rejection under Section 112, second paragraph is overcome.

Claims 1-6 are rejected on the grounds of nonstatutory obviousness-type double patenting over U.S. 5,467,693. MPEP Section 804(II)(B)(1) states a double patenting rejection of the obviousness-type is analogous to a failure to meet the nonobviousness requirement of 35 U.S.C. 103 *except that the patent principally underlying the double patenting rejection is not considered prior art* [emphasis added]. Because the present application is not a continuation of U.S. 5,467,693, the nonstatutory obviousness-type double patenting rejection is improper and should be withdrawn.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as anticipated by U.S. 5,102,677. It is stated the features of the rejected claims are structurally met by the reference. Claim 1

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has been rewritten into new claim 11 for the reasons stated above. The '677 does not disclose the structure recited in claim 11. In particular, the '677 patent fails to teach: (1) the claimed drive shaft and carrier member disposed vertically in line and with the longitudinal axis of said apparatus; (2) a hydraulic driving and expanding means directly connected to the lower mould plate for moving the same; and (3) a hydraulic piston cylinder unit having stepped interior chambers of differing volume to selectively vary the flow of hydraulic fluid therefrom so that piston velocity in the downward direction is greater than in the upward direction.

Conversely, the '677 patent teaches a two arm toggle mechanism extending between the driving member and the mould carrier, a cylinder piston unit having a longitudinal axis that is inclined in relation to the vertical axis of the apparatus and, no disclosure of a stepped chamber within the piston cylinder unit. Accordingly, it is respectfully asserted neither original claim 1 nor rewritten claim 11 are anticipated within the meaning of 35 U.S.C. 102(b).

Attached is a substitute specification containing section headings as required under U.S. practice and correcting minor errors. No new matter has been added. Also attached is a

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marked-up copy of the specification as filed showing the changes made. It is requested the substitute specification be entered.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

The government fee for a three month extension was paid at the time of electronic filing of this paper. It is believed that no additional fee is due. If that is incorrect, debit Deposit Account No. 192105 and notify the undersigned.

Respectfully submitted,

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